

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

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|--------------------------|---|-----------------------------|
| VICTOR LAMANS NOVENE |) | |
| |) | |
| v. |) | No. 1:13-CV-247/1:91-CR-115 |
| |) | <i>Judge Mattice</i> |
| UNITED STATES OF AMERICA |) | |

MEMORANDUM

Federal prisoner Victor Lamans Novene ("Novene") filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on April 21, 1997. *See Novene v. United States*, Civil Action No. 1:97-cv-249 (Court Doc. 1). The motion was granted in part and denied in part on June 22, 2000. *See Novene v. United States*, Civil Action No. 1:97-cv-249, (Court Docs. 7 & 8).¹ Novene has now filed a second § 2255 motion attacking the same convictions (Criminal Doc. 100).

In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," effective April 24, 1996, Novene cannot file a second or successive § 2255 motion in the District Court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the District Court to consider the motion. This Court has not received an order from the Sixth Circuit authorizing it to consider the pending motion.

Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631, and close

¹ The Court granted the motion only to the limited extent that Count 9, conspiracy in violation of 21 U.S.C. § 846 was vacated and set aside on the ground of double jeopardy under the Fifth Amendment to the United States Constitution. The Court, however, reserved and retained the right and authority to reinstate the judgment of conviction and sentence on Count 9 in the event that the judgment of conviction and sentence on Court 1 for the offense of continuing criminal enterprise should happen to be vacated, set aside, or reversed at any time. All other claims and issues were denied and dismissed with prejudice.

this case (Criminal Doc. 100). See 28 U.S.C. § 2255(h); *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

SO ORDERED.

ENTER.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE